

REMARKS

Reconsideration of the present application is respectfully requested in light of the foregoing amendments and the following remarks. The aforesaid action was not made final.

By the Official Action of December 7, 2003, the Examiner has objected to the Abstract and the Specification. The use of "said" has been removed from the Abstract and a new Abstract sheet enclosed herewith for entry in the present application. The Examiner has also identified an incorrect figure number on page 10, line 23. An amendment to the entire paragraph has been presented above and a substitute page 10 is presented herewith for entry in the present application.

Substantively, Claims 1-4, 6, 7, and 10 stand rejected under 35 USC §102(b) as being assertedly anticipated by Scaramuzzi, US Patent No. 3,276,808. Claims 1, 2 and 5-7 have also been rejected under §102(b) as being assertedly anticipated by Scaramuzzi '808.

Claim 8 stands rejected under 35 USC §103(a) as assertedly being obvious in view of Scaramuzzi '808. Claims 13-16, 18 and 19 stand rejected under 35 USC §103(a) as being assertedly obvious over Scaramuzzi '808 in view of Phillips, US Patent No. 3,133,511. Claims 13, 14 and 17-19 stand rejected under 35 USC §103(a) as being assertedly obvious over Scaramuzzi '808 in view of Phillips '511.

The Examiner has indicated that Claims 9, 11, 12 and 20-22 are allowed.

The Applicant respectfully traverses the foregoing rejections and submits to the contrary that the present invention, as defined in the amended claims, is neither anticipated nor rendered obvious by the cited references, taken singly or in combination.

The first §102 rejection is in error and should be withdrawn. The Examiner has identified surface 14 in the Scaramuzzi reference as being a “lifting surface”. According to the present invention, the lifting surface is a generally horizontal, flat surface for operational engagement with a lifting member during a lifting operation. Surface 14 of the Scaramuzzi reference is a substantially vertical surface and any contact with a lifting implement is inconsequential to the lifting operation. Simply put, surface 14 is not a lifting surface and it is a mischaracterization of the Scaramuzzi reference to so assert. It is respectfully requested that the first §102 rejection be withdrawn.

The second §102 rejection is now moot in light of the foregoing amendments defining the curved recess as extending inwardly of the base member from a side surface. Such a structure is neither taught nor suggested by the Scaramuzzi ‘808 reference whose so-called lifting and projecting surfaces are formed by paired projecting base members with one base member (11) substantially larger than the other, as illustrated in Fig. 1. Fig. 2 illustrates these surfaces as a small lateral extension of the larger base member. It is respectfully requested that the second §102 rejection be withdrawn.

Claim 8 should be allowable as depending from a now-allowable base claim, and it is respectfully requested that the rejection under §103 be withdrawn.

The first §103 rejection of Claim 13 is in error and should be withdrawn. Claim 13 includes essentially the same limitations as Claim 1, except applied to a container and not a pallet. The Official Action asserts that the structure of Claim 13 may be rendered obvious by a combination of Scaramuzzi ‘808 (Figs. 2 and 3) and Phillips ‘511. It has been demonstrated above that the Scaramuzzi patent was misapplied to the present invention since that which is asserted in the Official Action to be a lifting surface is substantially vertically oriented and

cannot be considered a lifting surface and the asserted §103 combination fails as a result. Claim 13, as amended, should now be considered allowable and accordingly, dependent claims 14-16, 18 and 19 should be considered allowable. It is respectfully requested that the first §103 rejection be withdrawn.

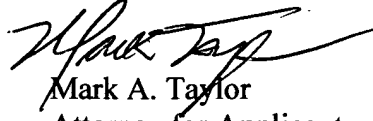
In addition, the second §103 rejection of Claim 13 is now moot in light of the foregoing amendments. The Official Action asserts that the structure of Claim 13 may be rendered obvious by a combination of Scaramuzzi '808 (Figs. 1 and 3) and Phillips '511. The foregoing amendments define the curved recess as extending inwardly of the base member from a side surface. Such a structure is neither taught nor suggested by the Scaramuzzi '808 reference whose so-called lifting and projecting surfaces are formed by paired projecting base members with one base member (11) substantially larger than the other, as illustrated in Fig. 1. Fig. 2 illustrates these surfaces as a small lateral extension of the larger base member. The asserted §103 combination fails as a result. Claim 13, as amended, should now be considered allowable and accordingly, dependent claims 14 and 17-19 should be considered allowable. It is respectfully requested that the second §103 rejection be withdrawn.

Entry of the present amendment is respectfully requested in order to place the application in condition for allowance, in accordance with the Examiners indications in the aforesaid Action.

Attached hereto is a marked-up version of the changes made to the specification by the present amendment. The attached page is captioned "Version With Markings To Show Changes Made In The Specification". Also appended hereto are a substitute Abstract and a Claim Listing.

By the above amendment and remarks, it has been demonstrated that claims 1-22 are now in condition for allowance. It is therefore respectfully requested that claims 1-22 be allowed and the present application be passed to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark A. Taylor", is written over the printed name.

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